

105TH CONGRESS
2D SESSION

S. 2045

To amend title 10, United States Code, to permit certain beneficiaries of the military health care system to enroll in Federal employees health benefits plans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 7, 1998

Mr. FAIRCLOTH introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to permit certain beneficiaries of the military health care system to enroll in Federal employees health benefits plans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Improved Military
5 Medical Plan Act”.

1 **SEC. 2. INCLUSION OF CERTAIN COVERED BENEFICIARIES**
 2 **IN FEDERAL EMPLOYEES HEALTH BENEFITS**
 3 **PROGRAM.**

4 (a) FEHBP OPTION.—(1) Chapter 55 of title 10,
 5 United States Code, is amended by inserting after section
 6 1079a the following new section:

7 **“§ 1079b. Health care coverage through Federal Em-**
 8 **ployees Health Benefits program**

9 “(a) FEHBP OPTION.—(1) Subject to the availabil-
 10 ity of funds to carry out this section for a fiscal year and
 11 subject to the provisions of this section, eligible bene-
 12 ficiaries described in subsection (b) shall be afforded an
 13 opportunity to enroll in any health benefits plan under the
 14 Federal Employees Health Benefits program under chap-
 15 ter 89 of title 5 that offers medical care comparable to
 16 the care authorized by section 1077 of this title to be pro-
 17 vided under section 1076 of this title (in this section re-
 18 ferred to as an ‘FEHBP plan’).

19 “(2) The administering Secretaries shall enter into
 20 an agreement with the Director of the Office of Personnel
 21 Management to carry out paragraph (1).

22 “(b) ELIGIBLE BENEFICIARIES.—(1) An eligible ben-
 23 eficiary referred to in subsection (a) is any member or
 24 former member of the uniformed services described in sec-
 25 tion 1074(b) of this title, or any dependents of such mem-
 26 ber or former member described in section 1076(b) of this

1 title, who is entitled to benefits under part A of title XVIII
 2 of the Social Security Act (42 U.S.C. 1395c et seq.).

3 “(2) An eligible beneficiary under this subsection
 4 shall not be required to satisfy any eligibility criteria speci-
 5 fied in chapter 89 of title 5 as a condition for enrollment
 6 in an FEHBP plan under this section.

7 “(c) AREAS OF ENROLLMENT.—(1)(A) Except as
 8 provided in paragraph (2), the Director of the Office of
 9 Personnel Management shall, in consultation with the ad-
 10 ministering Secretaries, select the areas in which eligible
 11 beneficiaries must reside in order to be permitted to enroll
 12 in FEHBP plans under this section. The Director shall
 13 select the largest number of such areas that is practicable.

14 “(B) The areas selected by the Director under sub-
 15 paragraph (A) shall include not less than six regions under
 16 the TRICARE program, with at least one such region in-
 17 cluding a site of the medicare subvention demonstration
 18 project for military retirees under section 1896 of the So-
 19 cial Security Act (42 U.S.C. 1395ggg).

20 “(2) Commencing not later than one year after the
 21 date of submittal of the report required by subsection
 22 (j)(2), eligible beneficiaries nationwide shall be afforded
 23 an opportunity to enroll in an FEHBP plan in accordance
 24 with this section.

1 “(d) PRIORITIES; LIST.—(1) Eligible beneficiaries
 2 shall be permitted to enroll in an FEHBP plan under this
 3 section based on the order in which such beneficiaries sub-
 4 mit to the administering Secretary concerned an applica-
 5 tion to enroll in an FEHBP plan under this section.

6 “(2) Each administering Secretary shall maintain a
 7 list of eligible beneficiaries who apply to enroll in an
 8 FEHBP plan under this section, but whom such Secretary
 9 is not able to enroll because of the lack of available funds
 10 to carry out this section.

11 “(3) Eligible beneficiaries who are on a list under
 12 paragraph (2) at the time of the expansion of opportuni-
 13 ties for eligible beneficiaries to enroll in FEHBP plans
 14 under subsection (c)(2) shall resubmit an application
 15 under this subsection to be afforded an opportunity to en-
 16 roll in an FEHBP plan under this section.

17 “(e) PERIOD OF ENROLLMENT.—The administering
 18 Secretaries shall provide a period of enrollment for eligible
 19 beneficiaries in FEHBP plans under this section for a pe-
 20 riod of 90 days—

21 “(1) before the commencement of the availabil-
 22 ity of care under such plans under this section; and

23 “(2) for each subsequent year thereafter.

24 “(f) TERM OF ENROLLMENT.—(1) An eligible bene-
 25 ficiary who elects to participate in a plan under the Fed-

1 eral Employees Health Benefits program under this sec-
2 tion shall participate continuously in such a plan (whether
3 in the plan originally elected or another plan) during the
4 three-year period beginning on the date of commencement
5 of the beneficiary's participation in such a plan under this
6 section.

7 “(2) An eligible beneficiary who discontinues partici-
8 pation in a plan under the Federal Employees Health
9 Benefits program under this section before the end of the
10 period described in paragraph (1) shall not be eligible to
11 reenroll in any plan under the program under this section.

12 “(g) RECEIPT OF CARE IN MILITARY TREATMENT
13 FACILITIES.—(1) An eligible beneficiary enrolled in an
14 FEHBP plan under this section may receive care at a
15 military medical treatment facility subject to the availabil-
16 ity of space in such facility.

17 “(2) The FEHBP plan concerned shall reimburse a
18 facility for the cost of treatment provided under paragraph
19 (1) to an eligible beneficiary enrolled in the plan under
20 this section.

21 “(3) An FEHBP plan may adjust the copayments of
22 an eligible beneficiary enrolled in the plan under this sec-
23 tion so that receipt of care by the beneficiary at a military
24 medical treatment facility results in no additional costs to
25 the plan when compared with the costs the plan would

1 have incurred if the beneficiary had received such care
2 from a provider in the plan.

3 “(h) CONTRIBUTIONS.—(1) Contributions shall be
4 made for an eligible beneficiary who enrolls in an FEHBP
5 plan under this section as if the beneficiary were an em-
6 ployee of the Federal Government.

7 “(2) The administering Secretary concerned shall be
8 responsible for the Government contributions that the Di-
9 rector of the Office of Personnel Management determines
10 would be payable by such Secretary under section 8906
11 of title 5 for an eligible beneficiary who is enrolled in an
12 FEHBP plan under this section if the beneficiary were
13 an employee of such Secretary.

14 “(3) Each eligible beneficiary enrolled in an FEHBP
15 plan under this section shall be required to contribute the
16 amount that would be withheld from the pay of a similarly
17 situated Federal employee who is enrolled in the plan
18 under chapter 89 of title 5.

19 “(i) MANAGEMENT OF PARTICIPATION.—(1) The Di-
20 rector of the Office of Personnel Management shall man-
21 age the participation of eligible beneficiaries in FEHBP
22 plans under this section.

23 “(2) The Director and the administering Secretaries
24 shall ensure (whether through procedures, the establish-
25 ment of reserve funds, or other mechanisms) that inclu-

1 sion of such participating eligible beneficiaries under chap-
2 ter 89 of title 5 will not have an adverse financial effect
3 on Federal employees and annuitants enrolled in health
4 benefits plans under such chapter.

5 “(j) REPORTING REQUIREMENTS.—(1) Not later
6 than November 1 each year, the administering Secretaries
7 and the Director of the Office of Personnel Management
8 shall jointly submit to Congress a report describing the
9 provision of health care services to eligible beneficiaries
10 who were enrolled in FEHBP plans under this section
11 during the preceding fiscal year. The report shall address
12 or contain the following:

13 “(A) The number of such eligible beneficiaries,
14 both in terms of total number and as a percentage
15 of all covered beneficiaries who are receiving health
16 care through the health care system of the uni-
17 formed services.

18 “(B) The extent to which such eligible bene-
19 ficiaries used the health care services available to
20 such beneficiaries under such plans.

21 “(C) The cost to such eligible beneficiaries of
22 health care under such plans.

23 “(D) The cost to the Department of Defense,
24 the Department of Transportation, the Department
25 of Health and Human Services, and any other de-

1 partments and agencies of the Federal Government
2 of providing care to such eligible beneficiaries.

3 “(E) A comparison of the costs determined
4 under paragraphs (C) and (D) with the costs that
5 would otherwise have been incurred by the United
6 States and such eligible beneficiaries under alter-
7 native health care options available to the admin-
8 istering Secretaries.

9 “(F) The effects of the exercise of authority
10 under this section on the cost, access, and utilization
11 rates of other health care options under the health
12 care system of the uniformed services.

13 “(G) An assessment, as of the date of the re-
14 port, whether or not the health care option under
15 the TRICARE program known as TRICARE Stand-
16 ard offers medical care coverage that is substantially
17 similar to the medical care coverage offered under
18 the fee-for-service health benefits plan under the
19 Federal Employees Health Benefits program having
20 the most number of subscribers as of such date, and,
21 if not, whether or not that option is being modified
22 in order to offer such coverage.

23 “(2) Not later than 3 years after the date of enact-
24 ment of the Improved Military Medical Plan Act, the ad-

1 ministering Secretaries shall jointly submit to Congress a
2 report setting forth—

3 “(A) the assessment of such Secretaries as to
4 the advisability of—

5 “(i) offering to eligible beneficiaries de-
6 scribed in subsection (b)(1) the health care op-
7 tion available under subsection (a) on a perma-
8 nent basis nationwide; or

9 “(ii) limiting the availability of that health
10 care option to eligible beneficiaries who are cur-
11 rently enrolled in an FEHBP plan as of the
12 date of the report;

13 “(B) the recommendation of such Secretaries
14 whether—

15 “(i) to expand the availability of the health
16 care option available under subsection (a) to
17 any member or former member of the uni-
18 formed services described in section 1074(b) of
19 this title, or any dependent of such member or
20 former member described in section 1076(b) of
21 this title, without regard to whether such mem-
22 ber or former member, or dependent, is entitled
23 to benefits under part A of title XVIII of the
24 Social Security Act; or

1 “(ii) not to expand the availability of that
2 option in accordance with clause (i) because the
3 TRICARE Standard health care option offers
4 medical care coverage that is substantially simi-
5 lar to the medical care coverage offered under
6 the fee-for-service health benefits plan under
7 the Federal Employees Health Benefits pro-
8 gram having the most number of subscribers as
9 of the date of the report; and

10 “(C) the estimated costs of carrying out each
11 assessment under subparagraph (A) and the rec-
12 ommendation under subparagraph (B).

13 “(3)(A) Not later than 6 months after the submittal
14 of the report required by paragraph (2), the Comptroller
15 General shall submit to Congress an assessment of the
16 recommendation under subparagraph (B) of that para-
17 graph.

18 “(B) If the recommendation is not to expand the
19 availability of the option referred to in clause (i) of such
20 subparagraph (B) in accordance with that clause, the re-
21 view shall include an evaluation of the validity of any com-
22 parison made by the administering Secretaries for pur-
23 poses of clause (ii) of such subparagraph (B).”.

1 (2) The table of sections at the beginning of such
 2 chapter is amended by inserting after the item relating
 3 to section 1079a the following:

“1079b. Health care coverage through Federal Employees Health Benefits program.”.

4 (b) CONFORMING AMENDMENTS.—(1) Section 8905
 5 of title 5, United States Code, is amended—

6 (A) by redesignating subsections (d), (e), and
 7 (f) as subsections (e), (f), and (g), respectively; and

8 (B) by inserting after subsection (c) the follow-
 9 ing new subsection (d):

10 “(d) An individual whom the administering Secretary
 11 concerned determines is an eligible beneficiary under sub-
 12 section (b) of section 1079b of title 10 may enroll in a
 13 health benefits plan under this chapter in accordance with
 14 the agreement entered into under subsection (a) of such
 15 section between such Secretary and the Office and with
 16 applicable regulations under this chapter.”.

17 (2) Section 8906 of title 5, United States Code, is
 18 amended—

19 (A) in subsection (b)—

20 (i) in paragraph (1), by striking “para-
 21 graphs (2) and (3)” and inserting in lieu there-
 22 of “paragraphs (2), (3), and (4)”; and

23 (ii) by adding at the end the following new
 24 paragraph:

1 “(4) In the case of individuals who enroll in a health
 2 plan under section 8905(d) of this title, the Government
 3 contribution shall be determined under section 1079b(h)
 4 of title 10.”; and

5 (B) in subsection (g)—

6 (i) in paragraph (1), by striking “para-
 7 graph (2)” and inserting in lieu thereof “para-
 8 graphs (2) and (3)”; and

9 (ii) by adding at the end the following new
 10 paragraph:

11 “(3) The Government contribution described in sub-
 12 section (b)(4) for individuals who enroll under section
 13 8905(d) of this title shall be paid as provided in section
 14 1079b(h) of title 10.”.

15 (c) IMPLEMENTATION.—The administering Secretar-
 16 ies shall begin to offer the health benefits option under
 17 section 1079b(a) of title 10, United States Code (as added
 18 by subsection (a)), not later than 6 months after the date
 19 of enactment of this Act.

20 (d) AVAILABILITY OF FUNDS.—(1) There shall be
 21 available to offer the health benefits option under section
 22 1079b of title 10, United States Code (as added by sub-
 23 section (a)), amounts as follows:

24 (A) \$100,000,000 for fiscal year 1999.

25 (B) \$125,000,000 for fiscal year 2000.

1 (C) \$150,000,000 for fiscal year 2001.

2 (D) \$175,000,000 for fiscal year 2002.

3 (E) \$200,000,000 for fiscal year 2003.

4 (2) Amounts available under paragraph (1) for a fis-
5 cal year for the purpose set forth in that paragraph shall
6 be derived from amounts authorized to be appropriated
7 to the Department of Defense, the Department of Trans-
8 portation, and the Department of Health and Human
9 Services, respectively, for such fiscal year for payment of
10 personnel costs.

11 (3) For each fiscal year set forth in paragraph (1),
12 the administering Secretaries shall determine the extent
13 to which the funds of their respective departments under
14 paragraph (2) shall be utilized for the purpose set forth
15 in paragraph (1) within the limitation for such fiscal year
16 specified in paragraph (1).

17 (e) PLAN FOR ENHANCEMENT OF TRICARE STAND-
18 ARD OPTION.—Not later than 6 months after the date of
19 enactment of this Act, the administering Secretaries shall
20 jointly submit to Congress a report that sets forth a plan
21 for any enhancements of the health care option under the
22 TRICARE program known as TRICARE Standard that
23 the administering Secretaries jointly consider necessary so
24 that the medical care coverage offered under that option
25 is substantially similar to the medical care coverage of-

1 fered under the fee-for-service health benefits plan under
2 the Federal Employees Health Benefits program under
3 chapter 89 of title 5, United States Code, that has the
4 most number of subscribers as of the date of the report.

5 (f) DEFINITIONS.—In this section:

6 (1) The term “administering Secretaries” has
7 the meaning given that term in section 1072(3) of
8 title 10, United States Code.

9 (2) The term “TRICARE program” has the
10 meaning given that term in section 1072(7) of title
11 10, United States Code.

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